

Appl. No. 10/080,776
Amdt. dated June 7, 2005
Reply to Office Action of May 3, 2005



REMARKS/ARGUMENTS

Amended claims 1, 9, 12, 15 and 18, original claims 2 – 8, 10, 11, 13, 14, 16, 17, 19 and 20, and new claims 21 - 26 are presented for Examiner Reichle's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

The Examiner has indicated that the drawings received on April 3, 2002 are accepted.

New claims 21 – 26 have been added to more fully claim Applicants' invention. Independent claim 21 is a combination of amended claim 1 and original claim 8. This claim now recites that the pair of fringes are free of elastic. In addition, claim 21 recites a refastenable absorbent undergarment having a refastenable waist opening. Basis for this language appears in the specification at page 11, lines 27 – 30. Claim 21 is patentably distinct over Fujioka et al. because it claims a structure not taught or suggested by Fujioka et al. In particular, Fujioka et al. does not teach a refastenable undergarment with a refastenable waist opening or a pair of fringes that are free of elastic.

Claims 22 is dependent upon claim 21 and recites an impediment layer positioned between the absorbent core and the garment side liner. Basis for this language appears in the specification at page 8, lines 20 - 21. Fujioka et al. does not teach an impediment layer located as claimed by Applicants.

Claim 23 is dependent upon claim 21 and recites that the exterior surface of the garment side liner has a high coefficient of friction. Basis for this language appears in the specification at page 10, lines 17 - 21. Fujioka et al. does not teach a garment side liner having a high coefficient of friction as claimed by Applicants.

Claim 24 is dependent upon claim 23 and recites that the high coefficient of friction makes the exterior surface a non-skid surface. Basis for this language appears in the specification at page 10, lines 17 - 19. Fujioka et al. does not teach the function of a garment side liner having a high coefficient of friction as claimed by Applicants.

Claim 25 is dependent upon claim 21 and recites that the refastenable absorbent undergarment includes a pair of side seams that can be manually torn open. Basis for this language appears in the specification at page 11, lines 21 - 22. Fujioka et al. does not teach a refastenable undergarment having a pair of side seams that can be manually torn open as claimed by Applicants.

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Claim 26 is dependent upon claim 21 and recites that the bodyside cover has a higher liquid permeability than said garment side liner. Basis for this language appears in the specification at page 5, lines 13 - 15. Fujioka et al. does not teach a bodyside cover having a higher liquid permeability than the garment side liner as claimed by Applicants.

No new matter has been introduced by the addition of these new claims and therefore they should be entered at this time.

The Abstract has been replaced by a shorter version of less than 150 words. Applicants' attorney thanks the Examiner for bringing this matter to his attention.

The Examiner has pointed out that the trademarks shown on pages 5 - 7 and 9 of the specification should be shown in capital letters but that the trademark symbol is not required. Applicants' attorney has removed the trademark symbol since the trademarks were already referred to in capital letters. Applicants' attorney thanks the Examiner for bringing this matter to his attention.

Also in the specification at page 13, line 17, Applicants have deleted the word "article" and replaced it with the word -articles-. This change has been made to make the sentence grammatically correct.

The Examiner has indicated that claims 1 - 8, 12 - 14 and 20 were objected to because of the following informalities: Claim 1, line 20; claim 12, line 10 and claim 20, line 1 appear to be missing a word or words. Applicants have amended each of the independent claims 1, 9, 12, 15 and 18 to state that the "secured" absorbent article acquires a curved configuration once it is secured to the primary absorbent undergarment. Basis for this language is found in the specification at page 15, lines 24 - 26. No new matter has been introduced by way of this amendment and therefore it should be entered at this time.

The Examiner has pointed out that the use of the phrase "attachment means" in the claims will be interpreted as described in 35 U.S.C. § 112, sixth paragraph.

By way of the Office Action mailed May 3, 2005, Examiner Reichle rejected claims 1 - 20 under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over European Patent Number EP 0 945 110 A2 issued to Fujioka et al. and assigned to Uni-Charm Corporation. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

The Fujioka et al. patent teaches a rectangular absorbent pad 20 which is designed to be secured to an open-type diaper 1. The diaper contains hooks 7 which are designed to attach to

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fasteners 8, see Fig. 2, once the diaper is positioned around the torso of a person. The only reference to a pant-like absorbent article appears at Column 5, lines 42 – 46 wherein it is stated:

"Although the disposable diaper 1 described herein is an example of the open type, the urine-absorbent pad 20 of the invention may also be used in combination with a disposable diaper of the pants type in which the front part 1A and the rear part 1B are bonded together at their edges."

With reference to Applicants' claim 1, Fujioka et al. does not teach Applicants' method of how and when to secure the absorbent pad to the undergarment. In claim 1, Applicants claim "positioning said primary absorbent undergarment onto a wearer's leg such that said wearer's legs extend through said leg openings and said waist opening is spaced apart from said wearer's torso;" see claim 1, paragraph (b). Applicants claim attaching the absorbent article to the undergarment after the user has inserted his or her legs into the undergarment and has stretched the undergarment out by spreading his or her legs apart. Fujioka et al. does not teach this. Secondly, Applicants, in claim 1, paragraph (d), claim that the absorbent article is secured to the undergarment and this causes the absorbent article to acquire a curved configuration, see Figures 4 and 5. Fujioka et al. shows an absorbent pad 20 having a curved profile before it is secured to the diaper, see Figure 2. Third, Applicants' pair of fringes 26 is biased upward by the curvature of the undergarment, not by elastic strands. Fujioka et al. teaches that elastic strands must be present in both the absorbent pad 20 and in the diaper 1, see Figure 2. In Fujioka et al., elastic strands 24 are used to create gathers 25 in the absorbent pad 20. The elastic strands 24 would cause the gathers 25 to be formed before the absorbent pad is ever secured to an undergarment, see Figures 1A and 2. Fourth, Applicants, in claim 1, paragraph (d), claim that the curved configuration acquired by the absorbent article 10 causes the pair of fringes to be biased upward to form a pair of upstanding side walls. In other words, the pair of fringes in Applicants' absorbent article does not become upstanding side walls until the absorbent article is secured to the undergarment. This feature is different from that disclosed in Fujioka et al. wherein the fringes contain elastic strands 24 and are constantly biased upward even before being secured to an undergarment. Fifth, Applicants, in claim 1, paragraph (d), further claim that the pair of upstanding side walls form a pair of reservoirs located adjacent to the absorbent core. Fujioka et al. does not disclose this feature. In fact, Figure 4 of Fujioka et al. shows no reservoirs. Furthermore, Fujioka et al. does not mention anywhere in their patent that such reservoirs are formed or the function of such reservoirs. Lastly, Applicants' claim 1, paragraph (e), claims that the pair of upstanding side walls is aligned against the wearer's groin. Fujioka et al. does not teach this feature. In fact, one skilled in the art would assume that the gathers 6 of the diaper 1 in Fujioka et al., see Figure 2,

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would contact the user's groin but that the gathers 25 of the pad 20 would be inward thereof. The reason one skilled in the art would arrive at this conclusion is that the elastic areas of most diapers are designed to enter the groin area of an infant. It is not logical that the gathers 25 of the pad 20 would also be in this same location. Accordingly, Fujioka et al. does not render Applicants' invention obvious as recited in claim 1.

In Applicants' claim 2, the liquid permeable bodyside cover and the liquid permeable garment side liner both have the same liquid permeability. Fujioka et al. teaches an opposite design at Column 3, lines 38 – 50. Here, Fujioka et al. teaches that the facing layer is liquid permeable but the backing layer is liquid-impermeable. Two different materials, one of which is not liquid permeable at all. Instead of forming the backing layer from a liquid permeable material, Fujioka et al. teaches one to form openings in the backing layer, see Figure 1C. After reading Fujioka et al., one skilled in the art would not know to make the backing layer liquid permeable as taught by Applicants. Accordingly, Fujioka et al. does not render Applicants' invention obvious as recited in claim 2.

In Applicants' claim 3, the method includes having the wearer laterally move his or her legs apart to cause the crotch portion of the undergarment to be stretched open. Fujioka et al. does not teach this feature. Applicants rely on the undergarment to be in a stretched state to allow the absorbent article to be firmly fastened thereto. If wrinkles and rugosities are present in the crotch portion of the undergarment, it may be difficult to create a good bond with the adhesive 44 present on the exterior surface 42 of the absorbent article 10, see Figure 5 of Applicants' drawings. Accordingly, Fujioka et al. does not render Applicants' invention obvious as recited in claim 3.

In Applicants' claims 4 and 5, the method includes positioning the waist opening of the undergarment about even with the wearer's thighs before the absorbent article is placed over or secured to the crotch portion of the undergarment. Fujioka et al. does not teach this feature. Accordingly, Fujioka et al. does not render Applicants' invention obvious as recited in claims 4 and 5.

In Applicants' claim 6, the method includes forming the absorbent article with a releasable peel strip that covers the attachment means and this releasable peel strip is removed before the absorbent article is secure to the undergarment. Fujioka et al. teaches just the opposite at Column 5, lines 47 – 50 wherein it is stated:

"If the user can frequently change the absorbent pad, for example, during the daytime, the urine-absorbent pad 20 is used with the covering sheet 27 attached."

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At Column 6, line 36, Fujioka et al. states that the covering sheet can be removed. One skilled in the art, after reading Fujioka et al., would have the impression that sometimes the covering sheet 27 can remain in place. This is not the case in Applicants' invention. Therefore, Fujioka et al. does not require that the covering sheet be always removed. Accordingly, Fujioka et al. does not render Applicants' invention obvious as recited in claim 6.

In Applicants' claim 8, it is claimed that the pair of fringes is free of elastic. Fujioka et al. teaches just the opposite at Column 4, lines 20 - 29. Here, it is recited that:

"The elastic members 24 exist in side areas where the absorbent core 23 is absent. ... The elastic members 24 are bonded to the facing layer 21 and the backing layer 22 in its stretched state in the Y direction."

Fujioka et al. requires such elastic strands to be present to form gathers 25 on both sides of the side areas of the urine-absorbent pad 20 in the X direction, see Column 4, lines 26 - 29. Accordingly, Fujioka et al. teaches away from Applicants' claimed invention and does not render Applicants' invention obvious as recited in claim 8.

Applicants' independent claim 9 also is not rendered obvious by Fujioka et al. Claim 9 differs over Fujioka et al. for the same reasons provided above with reference to claim 1. In addition, Applicants' claim 9 recites that the undergarment has a waist opening and a pair of leg openings. The absorbent article is first secured to the pant-like undergarment and then the wearer places his or her legs through the pair of leg openings. Fujioka et al. does not teach such a method. Accordingly, Fujioka et al. does not render Applicants' invention obvious as recited in claim 9.

Applicants' independent claim 12 also is not rendered obvious by Fujioka et al. Claim 12 differs over Fujioka et al. for the same reasons provided above with reference to claims 1 and 9. In addition, Applicants claim 12 recites that the undergarment is stretched before the peel strip is removed from the absorbent article and applied to the crotch portion of the undergarment. Furthermore, claim 12 recites withdrawing the undergarment from the wearer's torso before the soiled absorbent article is removed. Fujioka et al. does not teach such a method. Accordingly, Fujioka et al. does not render Applicants' invention obvious as recited in claim 12.

Applicants' independent claim 15 also is not rendered obvious by Fujioka et al. Claim 15 differs over Fujioka et al. for the same reasons provided above with reference to claims 1, 9 and 12. In addition, Applicants' claim 15 recites replacing the soiled absorbent article with a new absorbent article while the undergarment is away from the user's torso but still around the user's legs. Fujioka et al. does not teach such a method. Accordingly, Fujioka et al. does not render Applicants' invention obvious as recited in claim 15.

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Applicants' independent claim 18 also is not rendered obvious by Fujioka et al. Claim 18 differs over Fujioka et al. for the same reasons provided above with reference to claims 1, 9, 12 and 15. In addition, Applicants' claim 18 recites a method that reapplies steps c – e when a new absorbent article is needed to be attached. Fujioka et al. does not teach such a method. Accordingly, Fujioka et al. does not render Applicants' invention obvious as recited in claim 18.

In view of the above differences, Applicants truly believe that their method is patentably distinct over the cited Fujioka et al. reference.

For the reasons stated above, it is respectfully submitted that claims 1, 9, 12, 15 and 18, original claims 2 – 8, 10, 11, 13, 14, 16, 17, 19 and 20, and new claims 21 - 26 are in form for allowance.

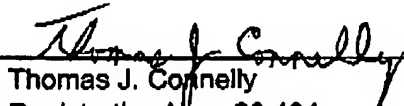
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The undersigned may be reached at: (920) 721-2455.

Respectfully submitted,

DENISE C. TEARS ET AL.

By:


Thomas J. Connelly
Registration No.: 28,404
Attorney for Applicant(s)

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